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September 2, 1999

BY OVERNIGHT MAIL

Magalie Roman Salas. Esq.
Secretary
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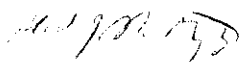
Re: CC Docket No. 98-170

Dear Ms. Salas:

Enclosed for filing please find an original plus four (4) copies of the Comments of Frontier Corporation in the above-docketed proceeding.

To acknowledge receipt, please affix an appropriate notation to the copy of this letter provided herewith for that purpose and return same to the undersigned in the enclosed, self-addressed envelope.

Very truly yours,



Michael J. Shortley, III

cc: International Transcription Service

Mr. David Konuch (paper plus diskette)

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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of

**Truth-in-Billing
and
Billing Format**

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CC Docket No. 98-170

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**COMMENTS OF
FRONTIER CORPORATION**

Frontier Corporation ("Frontier"), on behalf of its common carrier subsidiaries and in response to the Bureau's Public Notice,¹ submits these comments on the various petitions for stay filed in this proceeding.

Petitioners, in part, request that the Commission stay that aspect of its Truth-in-Billing order that requires carriers separately to identify new service providers on monthly bills.² Frontier concurs in this request and submits these brief comments in support thereof. The Commission should stay implementation of these rules pending reconsideration or judicial review.

A stay is warranted where a party demonstrates: (1) a likelihood of success on the merits; (2) irreparable injury; (3) absence of injury to third parties; and (4) the public interest favors grant of a stay.³ In the circumstances presented here, the requirements for issuance of a stay have been satisfied.

¹ Public Notice, DA 99-1616, *Common Carrier Bureau Seeks Comment on Petitions Relating to Truth-in-Billing*, CC Dkt. 98-170 (Aug. 13, 1999).

² *Truth-in-Billing and Billing Format*, CC Dkt. 98-170, First Report and Order and Further Notice of Proposed Rulemaking FCC 99-72, ¶¶ 28-36 (May 11, 1999) ("Order").

³ *Washington Metropolitan Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F2d 841, 842-43 (D.C. Cir. 1977).

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First, the parties have demonstrated a likelihood of success on the merits. Several parties have already either sought judicial review of the Order or have asked for reconsideration of portions thereof, including the requirement that carriers highlight new service providers. The rules as presently drafted are unlikely to remain intact. The record is barren of any evidence that carriers can comply with these requirements by September 4, the effective date of the new rules. Indeed, petitioners demonstrate that such compliance is literally impossible.⁴ Frontier is in the same position. Like petitioners, Frontier has thoroughly evaluated its billing systems and has already expended substantial resources to bring itself into compliance with those requirements. Nonetheless, Frontier cannot comply with those requirements by September 4. It is arbitrary and capricious for the Commission to order carriers to implement major billing system changes without any record support that they are capable of doing so.

In addition, the Commission's requirements are of dubious legality. The Commission justified its rules largely on the grounds that they will deter slamming, thus invoking its authority under section 258 of the Act.⁵ Slamming, of course, is the unauthorized change in a customer's *presubscribed* carrier. The new service provider rules address, almost exclusively, services provided by non-presubscribed-carriers or entities that are not carriers at all. Thus, the nexus between the problem that the Commission identifies and the legal basis upon which it justifies its rules is tenuous at best. As such, there exists a strong

⁴ See, e.g., USTA at 5; SBC at 7.

⁵ Order, ¶¶ 24-27.

likelihood that the Commission itself will alter these rules upon reconsideration or that a reviewing court will vacate them.

Second, petitioners have demonstrated that, absent a stay, they will suffer irreparable injury. Frontier is also in this position. Unless the Commission stays its rules, Frontier will be required to expend considerable sums of money to modify its billing systems to comply with these rules. If, as is likely, these rules are modified or rescinded, this effort will have been a complete waste, and of course, there would be no way for Frontier to recoup these losses that were incurred in an ultimately futile compliance effort.

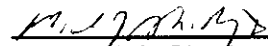
Moreover, the Commission's failure to stay its rules would require Frontier to divert scarce information technology resources and personnel from more essential projects, such as year 2000 compliance and developing new products and services for its customers. By definition, these losses are incapable of quantification, but are, nonetheless, very real.

Third, grant of a stay would not harm third parties. There is no evidence that consumers would be harmed if they do not immediately begin to receive the type of new service provider notification that the Commission envisions. Indeed, most of the information that the Commission believes is essential already appears on monthly telephone bills. It may not be specifically highlighted or sorted in a manner that the Commission desires, but the information is there. Consumers need only carefully review their bills today, which is an activity that consumers would need to undertake even if the Commission's rules were to remain in effect.

Finally, the public interest favors grant of a stay. In addition to the reasons stated above that demonstrate that a stay would serve the public interest, this request involves the integrity of the administrative process. The Commission should not issue regulatory decrees that are impossible to comply with. The Commission should take the time that issuance of a stay would afford carefully to weigh the costs and benefits of its new service provider rules. Reasoned consideration of the issues involved in this proceeding could only further the public interest.

For the foregoing reasons, the Commission should stay the effectiveness of its new service provider rules pending reconsideration or judicial review thereof.

Respectfully requested,



Michael J. Shortley, III

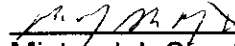
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September 2, 1999

Certificate of Service

I hereby certify that, on this 2nd day of September, 1999, copies of the foregoing Comments of Frontier Corporation were served by first-class mail, postage prepaid, upon the parties on the attached service list.



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